IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 11953 of 2006(W)

PETITIONER:

JOHN P. STEPHEN, S/O. P.V.STEPHEN,
RESIDING AT PULIMOOTTIL HOUSE, THODUPUZHA
AND HAVING ELECTRICITY CONSUMER NO.7564,
ELECTRICAL SECTION NO.1,
THODUPUZHA.

BY ADV. SRI.S.VINOD BHAT.

RESPONDENTS:
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1. **ASSISTANT ENGINEER,**
   ELECTRICAL SECTION NO.1,
   THODUPUZHA.

2. **THE KERALA STATE ELECTRICITY BOARD,**
   REP. BY ITS SECRETARY,
   VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SRI.JOSE J.MATHEIKEL, S.C, KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.11953 of 2006-W

Dated this the 27th day of February, 2007.

JUDGMENT

The petitioner is a consumer of electricity under the respondents. He has been served with Ext.P1 bill dated 25-3-1999 claiming an amount of Rs.1,73,048/-. He challenged the said order before this court by filing O.P. 2449 of 2000. The said O.P. was disposed of by Ext.P2 judgment and Ext.P1 was quashed. The Board took up the matter in appeal. The said appeal was allowed by Ext.P3 judgment of the Division Bench of this court. The relevant portion of the said judgment reads as follows:

> *"We therefore find no infirmity in the Board serving a consolidated bill after assessing the energy consumed by the consumer. In such circumstances, we are inclined to allow this appeal, set aside the judgment of the learned single Judge and the consumer is given six months' time from today to pay off the balance amount due on the basis of Ext.P1 bill, in six equal monthly instalments starting from 15-9-2005. Petitioner would make available copy of this judgment before the concerned Section and the concerned Officer would reschedule the amount on the basis of the bill by way of instalments. If the petitioner commits default in payment of the amount it is open to the Board to take appropriate steps including disconnection of supply."*

2. According to the Board, by virtue of Regulation 32 (e) of the Conditions of Supply of Electrical Energy 1990, the petitioner is liable to pay 24% interest as the said Regulation along with other Regulations form part of the agreement executed by the petitioner with the K.S.E.B. So, the demand is fully justified, it is submitted.

3. Heard the learned counsel on both sides. Going by Ext.P3 judgment, I feel that the same does not bar the claim of the K.S.E.B. for interest. Whether the K.S.E.B. is entitled for interest or not was not the subject matter of the decision by the Division Bench. It cannot be contended that by necessary implication collection of interest is barred. The right to collect interest is a statutory right vested in the K.S.E.B.. If the Division Bench wanted that the Electricity Board is not entitled to collect interest, the same would have been specifically mentioned.

4. Further, the petitioner has already consumed the electricity without paying the amount for it. Finally, it paid the amount. Therefore, it is bond to make good the loss suffered by the K.S.E.B. with interest also. This view is supported by the decision of the Apex Court in K.S.E.B. Vs. M.R.F. Ltd. (1996 (1) SCC 597). The contention of the petitioner that the claim of the K.S.E.B. is barred by Ext.P3 cannot be accepted. By virtue of Regulation 23 of the Electricity

Supply Code 2005 which is framed under the Electricity Act, 2005 the rate of interest that can be levied from the defaulting consumer is twice the bank rate. The K.S.E.B. shall modify Ext.P6 appropriately so that the interest rate after the enforcement of the Supply Code is in tune with the interest rate therein. The K.S.E.B. is directed to issue revised demand modifying the interest rate as directed above within one month from today to the petitioner. The petitioner may move the first respondent for instalment facility. In that event, the said respondent will grant appropriate instalment facility to the petitioner to clear the arrears.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS